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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/747,873	11/13/1996	JOHANNES H. MEGENS	53142/908600	9527

23409            7590            03/28/2003  
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EXAMINER
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HARTMANN, GARY S

ART UNIT	PAPER NUMBER
3671	43

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SEARCHED  
SERIALIZED  
INDEXED  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	08/747,873	MEGENS, JOHANNES H.
	<b>Examiner</b>	<b>Art Unit</b>
	Gary Hartmann	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 June 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7,9-15 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 13-15 is/are allowed.
- 6) Claim(s) 1-4,6,7,9-12 and 25-28 is/are rejected.
- 7) Claim(s) 5 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 November 1996 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 03 June 2002 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____                                     |

## **DETAILED ACTION**

### ***Drawings***

1. While the proposed drawing correction filed 6/3/2002 is approved, the drawings continue to be objected to because the lines are not uniformly thick and well defined.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the base inclined eighty-one degrees must be shown or the feature canceled from the claims. No new matter should be entered.
3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because the specification is replete with grammatical errors, misspellings and is written in a generally awkward manner as pointed out in the original office action of the patent application 07/487,892. While applicant's amendment of 6/3/2002 has corrected many of the errors, many still exist. Examples include, but are not limited to: page 6, line 10 of the response, "is" should be --it--; and page 7, line 9 includes a sentence fragment.

***Claim Rejections - 35 USC § 112***

5. Claims 25-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The ranges of inclines claimed in claims 25-27 are not described in the specification and not adequately shown in the drawings. Therefore, inclusion thereof in the claims is new matter. Additionally, near the outer limits of the claimed ranges, it does not appear that the structure could be constructed in a manner such that the apparatus would properly function.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 12, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. (U.S. Patent 3,659,899) in view of Kelley Dyna-Load™ Mechanical Dockleveler owner's manual. Phillips et al. discloses a loading bridge including a planar member (63) pivotally connected to a loading platform (62) by a hinge (at 64). The front edge is perpendicularly movable (Figure 6). There is a base portion (65) positioned under the planar member (63). There is an inflatable pivot means (66) positioned on the base (65). Phillips et al. is silent regarding the base being inclined. Kelley teaches a dock leveler which optionally uses

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either a flat or inclined base portion (lower right corner of page 1); thereby leaving the decision to one skilled in the art. It is standard design practice in civil engineered structures to provide for proper drainage when environmental factors warrant it. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the slope taught by Kelley with the base portion of Phillips et al. in order to provide for drainage. Similarly with respect to the gradient of the slope, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a gradient as deemed necessary in order to drain a design volume per unit of time.

Regarding claim 2, it can be seen in Figure 6 that blower (50) would be positioned below the base portion (65) when connected.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. and Kelley Dyna-Load™ Mechanical Dockleveler owner's manual as applied above, and further in view of Scott. Scott teaches polyethylene as a material of construction for an inflatable bladder (see column 5, line 50). In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the material of Scott to construct the bag of Phillips et al. in order to obtain a durable apparatus.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. and Kelley Dyna-Load™ Mechanical Dockleveler owner's manual as applied above, and further in view of Beer (AU 588734). Beer teaches PVC as a material of construction for an inflatable bladder (see page 5). In view of this teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the material of Beer to construct the bag of Phillips et al. in order to obtain a durable apparatus.

10. Claims 6, 7, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. and Kelley Dyna-Load™ Mechanical Dockleveler owner's manual as applied above, and further in view of Smock (U.S. Patent 3,784,255). Phillips is silent regarding the rigid top and bottom. Smock teaches an inflatable bag having a rigid bottom and top (rings 37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the construction of Smock with the apparatus of Phillips et al. in order to maintain proper alignment of the system.

11. Claims 9-11 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. and Kelley Dyna-Load™ Mechanical Dockleveler owner's manual as applied above, and further in view of Pfleger et al. (U.S. Patent 3,902,213). Phillips et al. and Kelley are silent with regard to a lip. Pfleger teaches a lip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the lip of Pfleger et al. with Phillips et al. in order to obtain a better connection between a truck and the planar member, as taught by Pfleger et al. (see column 5, lines 2-25).

Regarding claim 28, Phillips et al. is silent regarding a base positioned above the pit floor, but Kelley shows transporting the dock leveler as a single unit. Pfleger et al. teach a base portion (2) between a planar member (3) and a pit floor (not labeled). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the base portion taught by Pfleger et al. with the loading bridge of Phillips et al. in order to enable the unit to be easily installed and more structurally rigid.

*Allowable Subject Matter*

12. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 13-15 are allowed.

*Response to Arguments*

14. Applicant's arguments filed 6/3/2002 have been fully considered but they are not persuasive. Applicant argues that no drainage is necessary from the pit of Phillips et al. because the bag covers the pit floor. The examiner agrees that Phillips et al. is silent regarding drainage and that the bag covers most of the pit floor; however, as pointed out in applicant's arguments, water could still accumulate through slits located along the lateral edges of the ramp. Water that seeped through in this manner could damage the outer surface of the bag. One skilled in the art would have considered this factor when designing the loading dock pit. Further, it is standard design practice to facilitate drainage in structures as necessary. Examples of this include roofs, bath tubs, road crowns, water mains, etc. That the Kelley owner's manual shows the slope to be optional is a clear indication that the decision regarding including a slope is left to one skilled in the art. In other words, creating a slope for drainage is very well known and standard design practice; and Kelley clearly leaves the decision regarding slope to one skilled in the art. Therefore, the rejection is proper. The applicant of the present application did not invent sloping a surface to facilitate drainage, and the examiner would be remiss in allowing a claim based on this limitation.

*Conclusion*

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brotsch, Jr. teaches sloping a paved surface in order to facilitate drainage.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

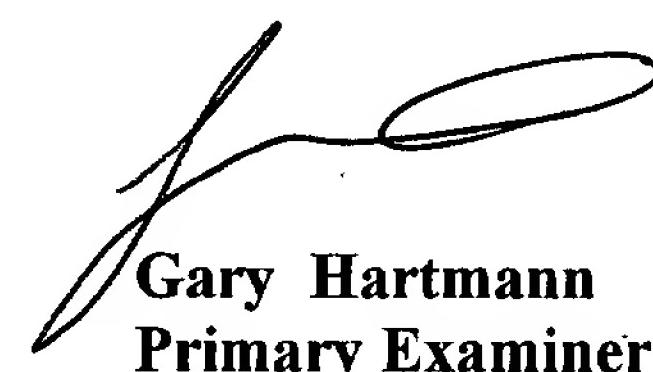
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

gh

March 7, 2003



Gary Hartmann  
Primary Examiner  
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